

# EXHIBIT 3

Page 1

1

2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 Civil Case No. 17-CV-02393

-----x

4 CIERA WASHINGTON,

Plaintiff,

5 -against-

6 WALGREENS; WALGREENS CO.; DUANE READE;  
7 DUANE READE INC.; DUANE READE  
INTERNATIONAL, LLC; and Individually and  
Jointly; LUIS GUERRERO; GERMAINE ALLEN;  
VIVIAN GHOBRIAL; and CRYSTAL BECKRUM,

8 Defendants.

-----x

9

10 1250 Broadway  
11 New York, New York  
12 February 13, 2018  
13 10:25 a.m.

14 PORTIONS CONFIDENTIAL,  
15 ATTORNEYS' EYES ONLY

16 DEPOSITION of VIVIAN GHOBRIAL, one of  
the Defendants in the above-entitled  
17 action, held at the above time and place,  
taken before Brian Brenner, a Shorthand  
18 Reporter and Notary Public of the State of  
19 New York, pursuant to the Federal Rules of  
20 Civil Procedure, Court Order and  
21 stipulations between Counsel.

22

23

24

25

1                   V. GHOBRIAL

2       and I need for her to contact benefits and  
3       provide the supporting documents for her  
4       injury. I explained, you know, so we will  
5       have on record just in case -- we didn't  
6       want her to get hit with any bills or  
7       whatever because this was a Workers' Comp  
8       case, so her best bet is to contact  
9       benefits.

10       Q       Because it's a Workers' Comp  
11       case?

12       A       It would be a Workers' Comp  
13       case. According to her she had injuries  
14       from the robbery, and she was going to  
15       hospitals and doctors and stuff, so I said  
16       it would be a Workers' Comp case. It's  
17       just you need to contact benefits in order  
18       for you to discuss your options with  
19       benefits, and she said she would. That  
20       was it.

21       Q       So before you were saying that  
22       you were contacting Plaintiff -- you were  
23       communicating with Plaintiff because you  
24       were trying to get Plaintiff to submit  
25       documentation to benefits to support that

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2       she was on medical leave, but now you seem  
3       to be talking about that you spoke with  
4       Plaintiff for her benefit so that she  
5       could make sure to get Workers' Comp  
6       payments?

7                   A       It's the same conversation.  
8       It's pretty much proceeding to say, you  
9       know, because -- she said -- according to  
10      her she went to the hospital and she's  
11      seeking medical benefits. I said it's to  
12      your benefit to contact the benefit  
13      department so you don't get hit with any  
14      bills so we can have a case for her case.

15                  Q       At that time did Plaintiff have  
16      medical benefits as an employee of the  
17      company?

18                  A       I didn't check, but again I told  
19      her to discuss her options with benefits  
20      department.

21                  Q       What was your position at the  
22      company? When I say the company you know  
23      I mean Walgreens and Duane Reade, right?

24                  A       Yes.

25                  Q       What was your position at the

1                   V. GHOBRIAL  
2 conducting an investigation, and it  
3 involved a few people and Ciera Washington  
4 as part of it.

5                   Q         Understood. So before Plaintiff  
6 was robbed in December you never saw a  
7 video with respect to Plaintiff being  
8 involved in price modification, right?

9                   A         Correct.

10                  Q         And before Plaintiff was robbed  
11 in December you never saw any  
12 documentation or any other information  
13 related to Plaintiff allegedly being part  
14 of a price modification; is that correct?

15                  A         Correct.

16                  Q         Now, when you say there's a  
17 request to fire Plaintiff, you were saying  
18 part of the procedure is that someone  
19 makes a request to fire an employee. Then  
20 you look into that, right?

21                  A         Correct.

22                  Q         What form is that request to  
23 fire in? Is it paper, e-mail, virtual, in  
24 person, verbal? What is it?

25                  A         Depending on the case.

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2 MR. WARSHAW: Objection to  
3 form.

4 Q To price modify the items for  
5 her?

6 MR. WARSHAW: Objection to  
7 form.

8 Q Against policy?

9 A His statement.

10 Q Gregory Spear said that?

11 A No, but his statement admitting  
12 that he conducted it for her, and for her  
13 to accept it and for her to hand him \$20,  
14 that means she knowingly knew he was price  
15 modifying for her. She knew that he was  
16 going to price modify for her.

17 Q Let's break that down. You said  
18 Gregory Spear saying he's price modifying  
19 this for Plaintiff. Is that what you're  
20 saying?

21 A He admitted to price modifying  
22 the items for several employees. One of  
23 them was Ms. Washington.

24 Q Did he ever say that Ciera  
25 Washington asked him to do it?

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2 failed to come back from their leave.

3                 Q         Understood, but is that the same  
4 -- does that apply to Plaintiff's case as  
5 well?

6                 A         Yes.

7                 Q         So you said you make the  
8 determination -- you made the  
9 determination to fire Plaintiff, right?

10                A         Correct.

11                Q         Was there a request made for her  
12 firing?

13                A         Just for loss prevention, not  
14 for medical.

15                Q         My question is simple: Yes or  
16 no, was there a request to fire Plaintiff?

17                A         From loss prevention, yes, there  
18 was a request to fire the Plaintiff for  
19 theft.

20                Q         And when did that request come  
21 in?

22                A         I am not sure of the exact date.

23                Q         Do you know what month?

24                A         Not sure.

25                Q         Was it after Plaintiff was

1                   V. GHOBRIAL

2       robbed?

3       A       Correct.

4       Q       How long after Plaintiff was  
5       robbed was there a request to fire  
6       Plaintiff from loss prevention?

7       A       I am not sure.

8       Q       One week?

9       A       Not sure.

10      Q       Two weeks?

11      A       Not sure.

12      Q       Three weeks?

13      A       I am not sure.

14      Q       Four weeks?

15      A       Same answer, I am not sure.

16      Q       Do you know if it was before  
17      Christmas?

18      A       I believe sometime in January.

19      I am not sure.

20      Q       January 2016?

21      A       January 2016.

22      Q       Just trying to get the record  
23      straight. There was no request to fire  
24      Plaintiff before January 2016?

25      A       I am not sure.

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2 training as a shift leader? Yes.

3                   Q         And do you know that as part of  
4 Ms. Washington's training as a shift  
5 leader she was taught that she has to know  
6 as part of her job the price of every  
7 single item at any given time regardless  
8 of if it's ever on sale, discounted,  
9 whatever?

10                  MR. WARSHAW: Objection to the  
11 form.

12                  A         No.

13                  Q         You said that Plaintiff stole --

14                  MS. MORRISON: Strike that.

15                  Q         You said that Plaintiff rang up  
16 the items, right?

17                  A         No.

18                  MR. WARSHAW: Objection to the  
19 form.

20                  Q         So you know that Plaintiff  
21 didn't ring up the items, right?

22                  A         Correct.

23                  Q         What, if anything, gave you the  
24 indication that Plaintiff told Gregory  
25 Spear to ring up the items?

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2 MR. WARSHAW: Objection to  
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4 Q To price modify the items for  
5 her?

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18 Gregory Spear saying he's price modifying  
19 this for Plaintiff. Is that what you're  
20 saying?

21 A He admitted to price modifying  
22 the items for several employees. One of  
23 them was Ms. Washington.

24 Q Did he ever say that Ciera  
25 Washington asked him to do it?

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2 A No.

3 Q Did anyone ever say that Ciera  
4 Washington asked him to do it?

5 A Not that I know of.

6 Q Did you read anything that said  
7 Ciera Washington asked Gregory Spear to  
8 price modify these items for her?

9 A No.

10 Q Did anything in the tape show  
11 you that Ciera Washington said -- by the  
12 way, was the tape you reviewed -- did it  
13 have any audio?

14 A No.

15 Q It was just video?

16 A Correct.

17 Q So you didn't hear anything  
18 anyone said?

19 A Correct.

20 Q So did anything in the tape show  
21 you that the Plaintiff said to Gregory  
22 Spear "price modify these items for me"?

23 A No.

24 Q Any other indication that --

25 MS. MORRISON: Strike that.

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2 A No.

3 Q Did anyone ever say that Ciera  
4 Washington asked him to do it?

5 A Not that I know of.

6 Q Did you read anything that said  
7 Ciera Washington asked Gregory Spear to  
8 price modify these items for her?

9 A No.

10 Q Did anything in the tape show  
11 you that Ciera Washington said -- by the  
12 way, was the tape you reviewed -- did it  
13 have any audio?

14 A No.

15 Q It was just video?

16 A Correct.

17 Q So you didn't hear anything  
18 anyone said?

19 A Correct.

20 Q So did anything in the tape show  
21 you that the Plaintiff said to Gregory  
22 Spear "price modify these items for me"?

23 A No.

24 Q Any other indication that --

25 MS. MORRISON: Strike that.

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2           Q        Every time you leave the store,  
3       you say?

4           A        Correct.

5           Q        And because the Plaintiff -- and  
6       is that policy? You said it's in the  
7       handbook?

8           A        Yes. To get a bag check and  
9       coat check.

10          Q        And because Ciera Washington  
11       didn't get a bag check and because she  
12       gave \$20 to Gregory Spear, that's the  
13       entire reason for your support for saying  
14       that Plaintiff wanted Gregory Spear to  
15       price modify all those items for her?

16                  MR. WARSHAW: Objection to the  
17       form.

18          Q        Is that what you're saying?

19          A        It's various, the facts, but  
20       those two facts were part of it too, yes.  
21       She didn't follow company policy when it  
22       comes to employee purchase. She didn't  
23       follow company policy when it comes --  
24       with regards to bag checks when she  
25       leaves.

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2                 Q        Anything else?

3                 A        Instead of making a purchase off  
4       the clock, not on the clock.

5                 Q        There's a policy that you can't  
6       buy items as an employee when you are not  
7       working?

8                 A        You are supposed to be off the  
9       clock. Not on the clock when you purchase  
10      items.

11                Q        So there's a policy saying you  
12      will be disciplined if you purchase an  
13      item while you are working?

14                A        Correct.

15                Q        What else supported your  
16      reasoning that Plaintiff stole items, as  
17      you said?

18                A        The fact that she selected items  
19      that she knows is high-priced items, and  
20      loss prevention asks for these items to be  
21      locked due to being high-priced items --

22                Q        Wait, stop. You said loss  
23      prevention told her she should lock these  
24      items, the price of these items in her  
25      brain? Is that what you mean?

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2       they will be held accountable and it will  
3       include up to and including termination.  
4       I'm trying to find it for you.

5                   Q       Are you saying anywhere every  
6       single bullet point, every single thing  
7       within this employee handbook, if the  
8       employee does it mean that they are  
9       subject to discipline up to and including  
10      termination?

11          A       I am only saying when it comes  
12       to violation of company policies and  
13       rules. Not everything in bullet points in  
14       here.

15          Q       Understood, but now you pointed  
16       to employee shopping at the end of  
17       employee's shift. Does it say anything  
18       there if you do not do this you violate  
19       company policy?

20          A       Again I am going to try to find  
21       you where it says any violation of company  
22       policies could lead to termination.

23          Q       I understand, but I'm asking you  
24       a different question. Please focus on my  
25       question that I'm asking. I am asking you

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2    -- because you said there's something in  
3    the handbook that says any violation of  
4    company policy could subject you to  
5    termination, right?

6                   A         Yes.

7                   Q         Is there anything in the  
8    employee bullet point that says if you  
9    don't follow this you are violating  
10   company policy?

11                  A         Not right next to it --

12                  Q         Anywhere --

13                  A         -- like, in the same handbook.

14                  Q         You mean in the same handbook?

15                  A         In the same handbook that every  
16    policy and procedure, fail to follow  
17    company policy and procedure can lead to  
18    up and including termination.

19                  Q         Understood, but is there  
20    anything here in the bullet point that  
21    indicates it includes this particular  
22    bullet point?

23                  A         No handbook says right next to  
24    each bullet point if "and you fail to do  
25    so it will be termination, and if you fail

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2 to do so will be termination, and if you  
3 fail to do so will be termination."

4 Q Understood, but my question to  
5 you is different again.

6 MS. MORRISON: Please mark that  
7 the witness is --

8 A No.

9 Q Okay, now you finally answered  
10 it. So there's nothing here that says  
11 while the employee is shopping, blah,  
12 blah, blah, blah, and if you don't do this  
13 you are violating a company policy?

14 MR. WARSHAW: Objection to  
15 form.

16 Q Right?

17 A No. Unfortunately not every  
18 bullet point, we don't have -- you will be  
19 violating company policy.

20 Q There's nothing here? That's my  
21 question.

22 A Right next to it, no. There's  
23 nothing here --

24 Q But --

25 A There's --

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2 Q Hold on. Is there anything in  
3 sum and substance near any of these bullet  
4 points that you just pointed to at the top  
5 of DR62 that say these are company  
6 policies that if you violate -- these are  
7 company policies, indicating that they  
8 cannot be violated?

9 A I will find it for you, yes.

10 Q No. I'm saying, anything here  
11 in these five bullet points?

12 A On this paper, no.

13 Q It says at the top heading  
14 employee shopping, correct?

15 A Yes.

16 Q It doesn't say this is a policy  
17 that you must follow or you could be  
18 fired, right?

19 MR. WARSHAW: Objection to  
20 form.

21 Q Right?

22 A Right.

23 Q Now, do you see above on DR161  
24 lateness? Do you see that?

25 A I am sorry?

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2 their bag checked?

3 A I -- no.

4 MR. WARSHAW: Same objection.

5 Q Have you ever disciplined  
6 anybody because they exited the store  
7 without having their bag checked?

8 MR. WARSHAW: Same objection.

9 A No.

10 Q Any discipline of any kind?

11 MR. WARSHAW: Same objection.

12 A I don't discipline. I only get  
13 requests for termination when it's final.  
14 I get that, so managers, I'm sure, do  
15 discipline people, or if there's an issue  
16 like that -- I get the final end of it.

17 Q Understood. Thank you for  
18 clarifying. Have you ever been involved  
19 in or heard of someone being disciplined  
20 because they left the store without having  
21 their bag checked?

22 MR. WARSHAW: Objection to

23 form.

24 A Not sure.

25 Q Do you recall?

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2 MR. WARSHAW: Objection to  
3 form.

4 A No.

5 Q You don't recall?

6 MR. WARSHAW: Objection to  
7 form.

8 A No.

9 Q And we can go back to where we  
10 are trying to find where in the employee  
11 handbook it says that if you don't have  
12 your bag or coat, belongings checked every  
13 time you leave the store you will be  
14 subject to discipline.

15 MR. WARSHAW: Objection to  
16 form.

17 MS. MORRISON: While she is  
18 looking, may I ask for the grounds for  
19 the objection?

20 MR. WARSHAW: It's the same  
21 objection. You told me not to make a  
22 speaking objection, so it's an  
23 objection to the form.

24 MS. MORRISON: No. According  
25 to the rules, when you're actually

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2 other purported violations contained in  
3 the employee handbook that you allege  
4 Plaintiff violated, correct?

5                   A         Correct.

6                   Q         And there are no other  
7 provisions in the employee handbook that  
8 you relied on to suspend or fire Plaintiff  
9 other than what you already testified to,  
10 correct?

11                  A         Correct.

12                  Q         And then you --

13                  MS. MORRISON: Just noting for  
14 the record that we have to stop  
15 quickly because defense counsel needs  
16 to patch somebody in on the phone.

17                  Is it okay to speak?

18                  MR. WARSHAW: Go.

19                  MS. MORRISON: The phone's  
20 ringing but I'll ask a question.

21                  Q         You said the other written  
22 policies you relied on to suspend and fire  
23 Plaintiff were in modules, correct?

24                  A         Yes.

25                  Q         So let me hand you what was

1                   V. GHOBRIAL

2     Exhibit 15 consists of documents Bates  
3     stamped DR127 through, to, and including  
4     DR140. Please, within Plaintiff's Exhibit  
5     15, point to all the provisions that you  
6     relied on to suspend and fire the  
7     Plaintiff. Actually, before we begin on  
8     that, though, I want to make sure it's  
9     clear. You suspended Plaintiff for the  
10    same reasons that you fired her, correct?

11               A     Correct.

12               Q     So we can talk about your  
13    reasons for suspending and firing  
14    Plaintiff jointly because they are the  
15    exact same reasons?

16               A     Correct.

17               Q     When did you make the decision  
18    to fire Plaintiff?

19                   MR. WARSHAW: Objection.

20               A     I believe February 22.

21               Q     What year, 2016?

22               A     Yes.

23               Q     Right after Plaintiff -- the day  
24    Plaintiff came back from medical leave?

25               A     Right after her interview, loss

1                   V. GHOBRIAL

2 prevention interview.

3       Q       Understood, with Troy Hennessy?

4       A       Yes.

5       Q       And that was the date that  
6 Plaintiff returned to work after medical  
7 leave, right?

8       A       Correct.

9       Q       And when did you make the  
10 decision to fire Plaintiff?

11      A       February 23, I believe.

12                  MR. WARSHAW: Objection to  
13 form.

14      Q       February 23, you believe?

15      A       February 23, 2016.

16      Q       You're sure about that?

17      A       I think so, yes.

18      Q       Is there possibly any other  
19 date?

20      A       No.

21      Q       When were discussions about  
22 suspending Plaintiff?

23                  MR. WARSHAW: Objection to  
24 form.

25      A       After the interview, February

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2 A Yes.

3 Q The top e-mail says HR has  
4 reviewed Ciera's paperwork and video  
5 recording her suspension. Do you see  
6 that?

7 A Yes.

8 Q And you wrote that, right?

9 A Yes.

10 Q So Plaintiff was already  
11 suspended by the time this e-mail was  
12 written, right?

13 A She was suspended on the 22nd.  
14 Yes.

15 Q So she was suspended before this  
16 e-mail that you said was dated February  
17 23, correct?

18 A Correct.

19 Q And supports the decision to  
20 terminate, right?

21 A Yes.

22 Q So the decision to terminate  
23 also occurred before your e-mail about you  
24 saying -- one that you say is February 23,  
25 2016?